

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

WELDON WALTER FELS,)	
)	
Petitioner,)	Civil Action No. 16-1541
)	Chief Magistrate Judge Maureen P. Kelly
v.)	
)	
SUPERINTENDENT JAY LANE and)	
BRUCE BEEMER, <i>The Attorney General of</i>)	
<i>the State of Pennsylvania,</i>)	
)	
Respondents.)	

MEMORANDUM ORDER

Weldon Walter Fells (“Petitioner”) is a state prisoner who has filed a Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254, challenging his convictions for firearms violations and retail theft.

As the Court was preparing to address the Petition, it came to the Court’s attention that Petitioner was no longer listed on the Pennsylvania Department of Corrections (“DOC”) Inmate Locator website,¹ which indicates that Petitioner is no longer in the custody of the DOC. A call was made to the Records Department of SCI-Fayette which confirmed that Petitioner was released on parole in August, 2017. Petitioner never informed the Court of his release on parole or a change of address.

In view of Petitioner’s release on parole and his failure to keep the Court informed of his current address, both of which would seem to indicate that Petitioner has lost interest in pursuing

¹ The DOC Inmate Locator site is available at:

<http://inmatelocator.cor.pa.gov/#/>

(site last visited 8/12/2018).

this case, the Court issued an Order to Show Cause, ECF No. 21, on July 16, 2018, directing Petitioner to show cause why this case should not be dismissed due to the fact that Petitioner was released on parole and he failed to provide the Court with his current address. Petitioner was ordered to file a response to the Order to Show Cause no later than July 31, 2018. The Order to Show Cause was sent to Petitioner's address of record. The Order to Show Cause was not returned as undeliverable. Petitioner failed to file a reply to the Order to Show Cause. The Order to Show Cause warned Petitioner that failure to file a response to the Order will result in the dismissal of this case without further warning.

All parties have consented to the plenary exercise of jurisdiction by the Magistrate Judge. ECF Nos. 8, 13.

Because Petitioner been released from DOC custody, and he has failed to keep the Court apprised of his current address and because he failed to file a response to the Order to Show Cause, the Court will dismiss this case for failure to prosecute. See, e.g., Ross v. Allen Parish Jail, No. 11-cv-1423, 2012 WL 6680384, at *1 (W.D. La., Nov. 13, 2012) (“The failure of a[] ... pro se litigant to keep the court apprised of an address change may be considered cause for dismissal for failure to prosecute when a notice is returned to the court for the reason of an incorrect address and no correction is made to the address for a period of thirty days.’ More than thirty days have elapsed since the court's correspondence to plaintiff was returned.”) (quoting a local rule). See also Poulis v. State Farm Fire and Casualty Co., 747 F.2d 863 (3d Cir. 1984),² setting forth considerations for dismissals based upon failure to prosecute. We find that the

² Those six Poulis factors are as follows: (1) the extent of the party's personal responsibility; (2) the prejudice to the adversary caused by the failure to meet scheduling orders and respond to discovery; (3) a history of dilatoriness; (4) whether the conduct of the party or attorney was willful or in bad faith; (5) the effectiveness of sanctions other than dismissal, which entails an analysis of alternative sanctions; and (6) the meritoriousness of the claim or defense. Poulis, 747 F.2d at 868.

considerations outlined in Poulis fully satisfied herein and that those Poulis factors weigh in favor of dismissing the case with prejudice for failure to prosecute.

AND NOW this 16th day of August 2018, the case is dismissed with prejudice for failure to prosecute. A certificate of appealability is denied.

BY THE COURT:

s/Maureen P. Kelly
MAUREEN P. KELLY
CHIEF UNITED STATES MAGISTRATE JUDGE

Date: August 16, 2018

cc: WELDON WALTER FELLOWS
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All counsel of record via CM-ECF